

with OMB Circular A-87, Cost Principles for State and Local Governments.

(c) *Cash contributions* means the recipient's (state or local government) cash outlay, including the outlay of money contributed to the recipient by other public agencies, institutions, private organizations, and individuals.

(d) *Cost share* means that portion of the allowable project cost which is not derived from Federal assistance.

(e) *Value* is the cost to the state for services and facilities or goods.

§ 222.3 Program intent.

(a) This regulation is intended to provide criteria with regard to the states' allowable costs associated with the administration of temporary and permanent relocation activities under CERCLA. CERCLA section 104(c)(3), as amended, states that the state will pay or assure payment of (1) 10 per centum of the costs of the remedial action, including all future maintenance or, (2) 50 per centum (or such greater amount as the President may determine appropriate, taking into account the degree of responsibility of the state or political subdivision for the release) of any sums expended in response to a release at a facility that was operated by the state or a political subdivision thereof, either directly, or through a contractual relationship or otherwise at the time of any disposal of hazardous substances therein. The Federal Government will pay 90 per centum under (a)(1) and 50 per centum or less under (a)(2).

(b) FEMA will determine, based on policy determinations with prospective effect, applying the criteria set out in §§ 222.4 and 222.5, the eligibility of any matching contributions not covered by this regulation. Expenditures and other actions must be in compliance with applicable FEMA/State cooperative agreements, contracts, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs (Uniform Regulations), relocation plans, relocation criteria, and OMB Circular A-87, Cost Principles for State and Local Governments. FEMA and the state shall maintain adequate records of its acquisition and relocation activities in sufficient

detail to demonstrate compliance with these regulations.

(c) This regulation shall be used in conjunction with the following documents:

(1) Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), Public Law 96-510;

(2) Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499;

(3) Executive Order 12580, Superfund Implementation;

(4) FEMA relocation regulations and criteria;

(5) OMB Circular A-87, Cost Principles for State and Local Governments;

(6) Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs (Uniform Regulations) 44 CFR part 25; and

(7) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894; 42 U.S.C. 9615)

§ 222.4 Matching contributions.

Either cash and/or the value of goods, services or facilities can qualify as matching contributions. Matching contributions need not be applied at the exact time or in proportion to the obligation of the Federal funds. However, the full matching share must be obligated by the end of the project for which the Federal funds have been made available for obligation under an approved program or project.

§ 222.5 Criteria for acceptable contributions.

(a) The value of any resources accepted as a matching share under one Federal agreement or program cannot be counted again as a contribution under another.

(b) The state seeking the match shall submit documentation sufficient for FEMA to determine that the contribution meets the following requirements. The match shall be:

(1) Necessary and reasonable for proper, cost-effective and efficient administration of the project, allocable solely thereto (subject to valid approved credit from a previous project), and except as specifically provided

§ 222.6

herein, not be a general expense required to carry out the overall responsibilities of State and local governments;

(2) Verifiable from primary recipient's records;

(3) Not allocable to or included as a cost of any other federally-financed program;

(4) Authorized under State law;

(5) In conformance with limitations or exclusions set forth in these regulations, Federal laws or other governing limitations as to types or amounts of cost items;

(6) Accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances; and

(7) In conformance with OMB Circular A-87, Cost Principles for State and Local Governments.

§ 222.6 Documentation of matching contributions.

(a) The state shall maintain documentation for all items related to the relocation that it plans to use as a matching contribution. For items eligible for matching contributions, documentation of dates on which the action took place, who performed such action, the cost, and specific work performed shall be sufficient.

(b) When items are not specifically on the list of General Eligible Costs, § 222.7 of this part) the following shall be required in addition to the documentation in paragraph (a) of this section: Sufficient supporting documentation detailing the type of work eligible, and justification to the relocation activity.

(c) The state shall also comply with the following requirements for all matching contributions:

(1) The state is responsible for maintaining records of the match and providing the documentation by eligible category when requested by FEMA or its agent.

(2) The basis by which the state determines the value of the match must be documented and a copy retained as part of the official record. State matching share records are subject to audit inspections in the same manner and to the same extent as records deal-

44 CFR Ch. I (10-1-98 Edition)

ing with the receipt and disposition of Federal funding.

(3) These records shall become property of FEMA following completion of the project or, at FEMA's request, shall be retained by the state for a period of ten years.

(Approved by the Office of Management and Budget under Control Number 3067-0184)

§ 222.7 General eligible costs.

Subject to the provision of section 104(c)(5) of CERCLA, *as amended*, the following is a list of eligible expenditures. When items do not appear on the list they will be considered on a case-by-case basis for policy determinations, based on the criteria set forth in § 222.5. All costs must be reasonable.

(a) Direct and indirect salaries or wages (including overtime) of employees hired specifically for the permanent or temporary relocation when engaged in the performance of eligible work for the permanent or temporary relocation.

(b) Direct and indirect salaries or wages (including overtime) of state employees whose duties change, when they are engaged in the performance of eligible work for the permanent or temporary relocation.

(c) Regular salaries or wages of regularly employed police and fire personnel when they are engaged in the performance of work for the permanent or temporary relocation.

(d) Reasonable costs for work performed by private contractors on eligible projects contracted for by the state.

(e) Audit costs for the relocation activity.

(f) Costs for providing site security.

(g) Travel costs and per diem costs of state employees not to exceed the actual subsistence expense basis for the permanent or temporary activity.

(h) Costs for rental of protective gear and costs for protective gear reasonably lost, worn out or destroyed when used in performing work directly related to the permanent relocation activity and fully documented. Protective gear may be purchased if it cannot be rented more cheaply.